



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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**MEMORANDUM**

**TO:** The Commission

**FROM:** Anthony Herman  
General Counsel

Daniel A. Petalas  
Associate General Counsel for Enforcement

Kathleen M. Guith  
Deputy Associate General Counsel for Enforcement

**BY:** Roy Q. Luckett *RQL*  
Acting Assistant General Counsel

Elena Paoli *EP*  
Attorney

**RE:** MUR 5924 (Tan Nguyen) – Pre-Probable Cause Conciliation

**SENSITIVE**

Attached is a conciliation agreement signed by Tan Nguyen on behalf of himself and Tan Nguyen for Congress and Tan Nguyen, in his official capacity as Treasurer ("Committee"). If accepted by the Commission, the agreement would settle violations of 2 U.S.C. §§ 441a(f), 434(b), 434(b)(4), and 441d(a) stemming from a letter sent by Nguyen and his Committee that attempted to persuade likely supporters of his opponent that they would be violating the law by voting.

**BACKGROUND**

This matter was initiated by a complaint filed by the State of California Department of Justice ("CDOJ") alleging that Nguyen and his authorized committee accepted an excessive contribution in the form of a coordinated communication.<sup>1</sup> The communication at issue was a

<sup>1</sup> The activities at issue occurred in 2006. The CDOJ filed the complaint on June 25, 2007. The First General Counsel's Report was dated December 20, 2007, and became part of the backlog of cases caused by the lack of quorum at the Commission from 2007-08. Once reconstituted, the Commission found reason to believe on Feb. 3, 2009.

1 letter sent to approximately 14,000 foreign-born, Spanish-speaking registered voters warning  
2 them about criminal penalties for immigrants who vote. The CDOJ had conducted a criminal  
3 investigation into the letter but closed the matter. The CDOJ then filed a complaint with the FEC  
4 and sent its investigative file.  
5

6 On Feb. 3, 2009, the Commission found reason to believe that Nguyen and the  
7 Committee knowingly and willfully violated 2 U.S.C. §§ 441a(f) and 441d(a) of the Federal  
8 Election Campaign Act of 1971, as amended ("the Act"), by accepting an excessive in-kind  
9 contribution in the form of a coordinated communication and failing to include a disclaimer on a  
10 public communication. The Commission also found reason to believe that the Committee  
11 knowingly and willfully violated 2 U.S.C. § 434(b) by failing to report the in-kind contribution  
12 and violated 2 U.S.C. § 434(b)(4) by failing to report disbursements.  
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**DISCUSSION**

We believe this negotiated settlement represents a reasonable compromise and recommend that the Commission accept the conciliation agreement and close the file.

**RECOMMENDATIONS**

1. Accept the attached conciliation agreement with Tan Nguyen and Tan Nguyen for Congress and Tan Nguyen, in his official capacity as Treasurer.
2. Close the file.
3. Approve the appropriate letters.